

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:)	Chapter 11
)	
RALPH ROBERTS REALTY, LLC, <i>et al.</i> ¹)	Case No. 12-53023
)	(Jointly Administered)
)	
Debtors.)	Judge Thomas J. Tucker
)	

**DEBTORS' MOTION FOR ORDER COMPELLING TURNOVER OF CONFIDENTIAL
BUSINESS INFORMATION, ACCESS TO ELECTRONIC FILES AND DEVICES AND
RELATED RELIEF**

Ralph Roberts Realty, LLC and Ralph R. Roberts (collectively, the “Debtors”) by and through their undersigned counsel, Gold, Lange & Majoros, P.C., hereby file this Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices and Related Relief (the “Motion”). In support of the Motion, the Debtors state as follows:

Factual Background

1. The Debtors filed these Chapter 11 cases on May 25, 2012.
2. This Court entered an order jointly administering the Debtors’ cases on May 31, 2012.
3. The Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”) on June 21, 2012. The Committee retained Carson Fischer, PLLC as counsel and this Court authorized that retention on July 31, 2012.
4. On November 26, 2012, the Debtors filed their Fourth Amended Combined Joint Chapter 11 Plan and Disclosure Statement (the “Plan”).

¹ This case is jointly administered with the case of Ralph R. Roberts, Case No. 12-53024.

5. The Plan is based around an auction of the Debtors' business assets. The Debtors' business is based on three revenue streams: (1) commissions, (2) property acquisition fees, and (3) investor splits (whereby the Debtors are entitled to a percentage of the net profit upon an investor's sale of an investor-owned property).

6. In order to generate these three types of revenue, the Debtors track and evaluate real property in Wayne, Oakland, and Macomb Counties that is scheduled to go to sheriff's sale as well as generally listed properties. The Debtors then determine whether a tracked property is subject to a bankruptcy or whether it may be undervalued. The Debtors' property evaluation procedure and the list of properties is proprietary and confidential.

7. The Debtors maintain various databases, electronic files, paper records, and other information related to the tracking of these properties, the valuation of the properties, the related investors and investment opportunities, and other confidential business information (the "Confidential Information").

8. As a result of the denial of confirmation of their Third Amended Combined Plan of Reorganization and Disclosure Statement on October 19, 2012, a number of the Debtors' employees became dissatisfied with the Debtors' prospects. In addition, the denial of confirmation caused a slowdown in the willingness of the Debtors' investors to continue to invest, as a result of the uncertainty surrounding the Debtors' future plans.

9. This caused the Debtors to suffer a severe revenue decline in October that resulted in cash flow difficulties.

10. Therefore, the Debtors laid off a number of employees in order to reduce expenses during the transition period.

11. However, the Debtors retained several employees that they believed were necessary to the success of the Debtors' continued operations. Among those retained were Ms. Grace Marji-Warren, former manager of the Debtors' investor department and a licensed real estate agent, Ms. Deborah "Bunny" Monti, a real estate agent, Ms. Sherry Drouillard, an associate broker and Ms. Lanette Louwers, an associate broker (collectively, the "Former Employees").

12. On November 14, 2012, Ms. Warren notified the Debtors via email that she was resigning, effective immediately. She gave no reason for the resignation.

13. Immediately after Thanksgiving, one of the Debtors' other employees came forward and disclosed that Ms. Warren and the other Former Employees had, before and after Ms. Warren's departure, stolen copies of the Debtors' tracking databases and other Confidential Information, formed a competing company despite their respective confidentiality and non-compete agreements with the Debtors, contacted the Debtors' current investors in an attempt to divert their investment business away from the Debtors, and otherwise illegally and improperly interfered with property of the Debtors' bankruptcy estate and the Debtors' business relationships.

14. The Debtors have verified that the Former Employees have engaged in a scheme to steal the Confidential Information to use in a competing business and to divert business away from the Debtors, including verification of the formation of the competing business entity and documentation of communications between the Former Employees regarding the Confidential Information.

15. The Debtors believe that the Former Employees' actions are not only an impermissible taking of property of the estate, but are in violation of the Bankruptcy Code and the Former Employees' confidentiality and non-compete agreements with the Debtors.

16. The Debtors further believe that the Former Employees' illegal and improper actions are causing irreparable harm to the Debtors' business, diverting investor opportunities, and harming the potential value of the Debtors' assets.

17. Therefore, the Debtors seek an order of this Court compelling the turnover of all Confidential Information in the possession, custody or control of the Former Employees, as well as an order barring the Former Employees from using the Confidential Information in any way, communicating with current employees or investors, and permitting the Debtors access to the Former Employees' electronic devices to confirm deletion of the Confidential Information.

Legal Argument

18. The Confidential Information constitutes property of the bankruptcy estate that the Debtors may sell under 11 U.S.C. §§ 541 & 363(b).

19. The Former Employees do not own and have no right to the Confidential Information, which was taken from the Debtors illegally. The Former Employees must turn this information over to the Debtors under 11 U.S.C. § 542.

20. The theft of the Confidential Information and the potential for its misuse to harm the Debtors is great, and therefore the Debtors' request for an order for turnover is not only justified but necessary to avoid irreparable harm to the Debtors' business.

WHEREFORE, the Debtors respectfully request that this Court enter an order (a) compelling turnover of the Confidential Information from the Former Employees, (b) compelling the Former Employees to immediately destroy any copies of Confidential Information in their

possession, custody, or control, (c) permitting the Debtors access to the Former Employees' electronic devices to confirm the deletion of all Confidential Information, (d) barring the Former Employees from using in any form or fashion the Confidential Information, (e) barring the Former Employees from contacting the Debtors' current employees, investors, clients, and customers, and (f) ordering the Former Employees to pay \$1,000 each plus attorneys' fees and other costs to compensate the Debtors for the necessity of bringing this Motion to recover the stolen Confidential Information as well as for such other and further relief as the Court deems just including costs associated with bringing this Motion.

Respectfully submitted,

GOLD, LANGE & MAJOROS, P.C.

Dated: November 27, 2012

/s/ Hannah M. McCollum
HANNAH M. MCCOLLUM (P67171)
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Southfield, Michigan 48075
(248) 350-8220
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Debtors.)	Judge Thomas J. Tucker
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**ORDER COMPELLING TURNOVER OF CONFIDENTIAL BUSINESS
INFORMATION, ACCESS TO ELECTRONIC FILES AND DEVICES AND RELATED
RELIEF**

This matter having come before the Court upon the Motion of Ralph Roberts Realty, LLC and Ralph R. Roberts (collectively, the “Debtors”) for an Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief (the “Motion”); no objections to the Motion having been timely filed or served; and the Court being otherwise duly advised in the premises;

IT IS HEREBY ORDERED that Ms. Grace Marji-Warren, Ms. Deborah “Bunny” Monti, Ms. Sherry Drouillard and Ms. Lanette Louwers (collectively, the “Former Employees”) must immediately turn over to the Debtors copies of all of the Debtors’ confidential and proprietary business information in whatever form, including, but not limited to, electronic files, databases, property lists, contact lists, employee and investor information, and any and all of the Debtors’ paper records (the “Confidential Information”) currently within the possession, custody or control of the Former Employees.

IT IS FURTHER ORDERED that the Former Employees must immediately delete any and all electronic copies of Confidential Information in their possession, custody and control.

EXHIBIT 1

¹ This case is jointly administered with the case of Ralph R. Roberts, Case No. 12-53024.

IT IS FURTHER ORDERED that the Former Employees must allow access to any and all of their electronic devices, including, but not limited to, telephones, tablets, computers, laptops to allow the Debtors to verify that all Confidential Information has been deleted and destroyed.

IT IS FURTHER ORDERED that the Former Employees are barred and prevented from in any form or fashion using, profiting from, sharing, marketing, distributing, disseminating, or otherwise using the Confidential Information either personally or in any competing business.

IT IS FURTHER ORDERED that the Former Employees are barred and prevented from contacting the current employees, investors, clients, and/or customers of the Debtors.

IT IS FURTHER ORDERED that each Former Employee is liable to, and will pay, the Debtors \$1,000 each plus attorneys' fees and other costs to compensate the Debtors for the costs associated with the bringing of the Motion.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:) Chapter 11
)
RALPH ROBERTS REALTY, LLC (TIN: 20-2660635), and) Case No. 12-53023
RALPH R. ROBERTS (SSN: XXX-XX-1695))
12900 Hall Rd., Suite 190) Jointly Administered
Sterling Heights, MI 48313)
) Judge Thomas J. Tucker
Debtors.)
)

**NOTICE OF DEBTORS' MOTION FOR ORDER COMPELLING TURNOVER OF
CONFIDENTIAL BUSINESS INFORMATION, ACCESS TO ELECTRONIC FILES
AND DEVICES, AND RELATED RELIEF**

Ralph Roberts Realty, LLC and Ralph R. Roberts (the "Debtors") have filed a Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief (the "Motion").

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the Motion, or if you want the Court to consider your views on the Motion, within fourteen (14) days from the date of service of the Motion, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at:³³

United States Bankruptcy Court
211 West Fort Street, Suite 2100
Detroit, Michigan 48226

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it within the above-referenced time period. All attorneys are required to file pleadings electronically.

Mail a copy to:

Hannah Mufson McCollum
Gold, Lange & Majoros, P.C.

³ Response or answer must comply with F.R.Civ.P.8(b)(c) and (e).

EXHIBIT 2

24901 Northwestern Highway, Ste. 444
Southfield, MI 48075

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the Motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

Respectfully submitted,

GOLD, LANGE & MAJOROS, P.C.

Dated: November 27, 2012

/s/ Hannah M. McCollum
HANNAH M. MCCOLLUM (P67171)
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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2012, I electronically filed the (1) *Debtors' Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief*, (2) *Proposed Order Granting Debtors' Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief*, (3) *Notice of Debtors' Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief* and (4) *Certificate of Service* with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Kelley Callard on behalf of U.S. Trustee Daniel McDermott
Kelley.Callard@usdoj.gov

Kassem Dakhallallah on behalf of Defendant Jerone Turner
kassem@jaafarandmahdi.com, kassemdakhallallah@aol.com

Stuart A. Gold
stuart.gold@7trustee.net, MI33@ecfcbis.com

Stuart A. Gold on behalf of Debtor In Possession Ralph Roberts
sgold@glmpc.com

Christopher A. Grosman on behalf of Creditor Committee Official Committee of Unsecured Creditors
BRCY@CarsonFischer.com, cgrosman@carsonfischer.com

Paul R. Hage on behalf of Interested Party Jaffe Raitt Heuer & Weiss, P.C.
phage@jaffelaw.com, jtravick@jaffelaw.com

Sherry Katz-Hedrington on behalf of Defendant Manaia Capital Management, Inc.
corplegalserv@aol.com, shedrington@cstmlaw.com

EXHIBIT 4

¹ This case is jointly administered with the case of Ralph R. Roberts, Case No. 12-53024.

John C. Lange on behalf of Debtor In Possession Ralph Roberts Realty, LLC.
jlange@glmpc.com

Jack J. Mazzara on behalf of Creditor The Mazzara Law Firm, PLLC
jjm@mazzaralaw.com, mds@mazzaralaw.com; mkk@mazzaralaw.com

Hannah Mufson McCollum on behalf of Debtor In Possession Ralph Roberts Realty, LLC.
hmccollum@glmpc.com

A. Stephen Ramadan on behalf of Creditor Bryan Legree
stevearamadan@gmail.com

Alan J. Taylor on behalf of Creditor Sterling Limited Partnership
alan.taylor@kitch.com, michael.vogt@kitch.com, nancy.bowen@kitch.com

Marc E. Thomas on behalf of Creditor Audrey Ferris
marc@bendurethomaslaw.com, marcethomas@msn.com

Robert A. Weisberg on behalf of Creditor Committee Official Committee of Unsecured Creditors
BRCY@CARSONFISCHER.COM, rweisberg@carsonfischer.com

I further certify that on November 27, 2012, I mailed via United States Mail, first class, postage prepaid, a copy of the (1) *Debtors' Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief*, (2) *Proposed Order Granting Debtors' Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief*, (3) *Notice of Debtors' Motion for Order Compelling Turnover of Confidential Business Information, Access to Electronic Files and Devices, and Related Relief* and (4) *Certificate of Service* to the following:

Ms. Grace Marji-Warren
15404 Callahan
Fraser, MI 48026

Ms. Deborah "Bunny" Monti
43588 Columbia
Clinton Twp., MI 48038

Ms. Sherry Drouillard
4309 Gratiot
Fort Gratiot, MI 48059

Ms. Lanette Louwers
5598 Raven
Bloomfield Hills, MI 48301

GOLD, LANGE & MAJOROS, P.C.

/s/ Hannah M. McCollum
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